

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Magdalena Azmitia	Team: Squad #3	CCRB Case #: 201902638	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/25/2018 7:00 AM, Thursday, 10/25/2018 10:30 AM	Location of Incident: [REDACTED]	Precinct: 90	18 Mo. SOL 4/25/2020	EO SOL 12/10/2020	
Date/Time CV Reported Wed, 03/27/2019 11:51 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/27/2019 11:51 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Gerard Fenton	06680	951725	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Brandon Taybron	02440	948514	084 PCT
2. SGT Ryan Dwyer	00832	940115	INT UOU
3. SGT Johnny Yin	2638	937771	084 PCT
4. DT2 Lawrence Hotaling	02671	897695	INT CIS
5. CPT Mark Vazquez	00000	933447	090 PCT
6. POM Leonard Clarke	27183	940013	INT CIS
7. POM Andrew Kamna	24865	943423	PBBN
8. POM Christopher Griffith	00258	951791	PBBN SU

Officer(s)	Allegation	Investigator Recommendation
A.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.POM Gerard Fenton	Abuse: Police Officer Gerard Fenton searched § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
C.POM Gerard Fenton	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Gerard Fenton refused to show the search warrant to § 87(2)(b) § 87(2)(b)	
D.POM Gerard Fenton	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Gerard Fenton refused to show the search warrant to § 87(2)(b) § 87(2)(b)	
E.POM Gerard Fenton	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Gerard Fenton refused to provide his shield number to § 87(2)(b) § 87(2)(b)	
F. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer refused to show the search warrant to § 87(2)(b) § 87(2)(b)	
G. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer refused to show the search warrant to § 87(2)(b) § 87(2)(b)	
H. An officer	Abuse: At § 87(2)(b) in Brooklyn, an officer refused to provide his shield number to § 87(2)(b) § 87(2)(b)	
I. An officer	Abuse: At the 84th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b) § 87(2)(b)	

Case Summary

On March 27, 2019, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of himself, his father § 87(2)(b), his brother § 87(2)(b), his § 87(2)(b)-year-old sister § 87(2)(b), and his cousins, § 87(2)(b)-year-old § 87(2)(b) and § 87(2)(b)-year-old § 87(2)(b).

On October 25, 2018, at approximately 7:30 AM, PO Gerard Fenton of the 77th Precinct, who was working for the Intelligence Division at the time, and a team of officers from numerous commands entered the § 87(2)(b) residence at § 87(2)(b) in Brooklyn pursuant to a no-knock Kings County search warrant KSC#§ 87(2)(b) issued by the Honorable Judge § 87(2)(b) (**Allegation A: Abuse of Authority, Exonerated**). Emergency Service Unit (ESU) officers handcuffed § 87(2)(b) and § 87(2)(b) and § 87(2)(b) s now ex-girlfriend § 87(2)(b) who stayed at the apartment. The civilians in the household were held in the living room while officers searched the apartment (**Allegation B: Abuse of Authority, § 87(2)(g)**). As the investigating officer of the warrant, PO Fenton led the search under the supervision of Sgt. Ryan Dwyer of the Intelligence Division. Both § 87(2)(b) and § 87(2)(b) repeatedly asked PO Fenton to see a copy of the search warrant, but PO Fenton allegedly ignored their requests (**Allegations C and D: Abuse of Authority, § 87(2)(g)**). PO Fenton also allegedly ignored § 87(2)(b) s request for his shield number (**Allegation E: Abuse of Authority, § 87(2)(g)**). The same information was requested from another officer, who also failed to show § 87(2)(b) and § 87(2)(b) the search warrant and did not provide his shield number to § 87(2)(b) (**Allegations F-H: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was arrested for criminal possession of a weapon and taken to the 84th Precinct stationhouse, where he allegedly attempted to hang himself while in the holding cell. An unidentified officer stopped § 87(2)(b) from hanging himself but did not take him to a hospital (**Allegation I: Abuse of Authority, § 87(2)(g)**).

No video footage of this incident was recovered.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Gerard Fenton entered § 87(2)(b) in Brooklyn.
Allegation (B) Abuse of Authority: Police Officer Gerard Fenton searched § 87(2)(b) in Brooklyn.

It is undisputed that on October 25, 2018, at approximately 7:30 AM, ESU officers breached § 87(2)(b) and entered the apartment with guns drawn pursuant to a no-knock Kings County search warrant #§ 87(2)(b) issued by the Honorable Judge § 87(2)(b) on § 87(2)(b) [BR 05]. It is also undisputed that PO Fenton requested the search warrant. The warrant

authorized officers to search for firearms, ammunition, documents, cell phones, and computers at the location.

§ 87(2)(b) testified to the CCRB that on the incident date, he was awoken by ESU officers, who entered his bedroom where he and § 87(2)(b) were sleeping and pointed guns at him [BR 02]. The officers handcuffed all adult civilians inside the apartment and led them to the living room. PO Fenton repeatedly asked

§ 87(2)(b) and § 87(2)(b) “Where is it?” All stated that they did not know what PO Fenton was talking about. ESU officers left the apartment, after which plainclothes officers, led by PO Fenton, searched the home, including three bedrooms, closets in the hallway and bedrooms, bathroom cabinets, and dresser drawers. The CCRB attempted to interview § 87(2)(b) and § 87(2)(b) all of whom were unavailable or uncooperative with the investigation [BR 13-15]. As § 87(2)(b) and § 87(2)(b) are all children under § 87(2)(b)s care, contact with them could not be established except through § 87(2)(b) who was uncooperative with the investigation.

New York State Criminal Procedure Law (CPL) §690.50 permits officers with a valid judge-issued warrant to enter and search a location [BR 27]. CPL §690.30 adds that a search warrant must be executed within 10 days and within the hours of 6:00 AM to 9:00 AM [BR 28].

§ 87(2)(b), § 87(2)(g)

Allegation (C) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Gerard Fenton refused to show the search warrant to § 87(2)(b).

Allegation (D) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Gerard Fenton refused to show the search warrant to § 87(2)(b).

Allegation (E) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Gerard Fenton refused to provide his shield number to § 87(2)(b).

§ 87(2)(b) testified that approximately eight officers in plainclothes searched his home, with PO Fenton leading the search throughout the apartment. and § 87(2)(b) said to PO Fenton several times, “Let me see this warrant,” and § 87(2)(b) repeated the request [BR 02]. PO Fenton was walking around the apartment during the search, but ultimately never responded to the requests for the warrant nor provided it. § 87(2)(b) also asked PO Fenton, “What’s your shield number?” but PO Fenton did not respond.

Neither PO Fenton nor Sgt. Dwyer recalled whether § 87(2)(b) or § 87(2)(b) asked to see the search warrant while it was

Mark Vazquez of the 90th Precinct as the ranking officer; Sgt. Dwyer as the search warrant supervisor; PO Fenton as the arresting officer; PO Christopher Griffith of Patrol Borough Brooklyn North as the recorder; Det. Lawrence Hotaling of the Intelligence Division as front security; PO Andrew Kamna of Patrol Borough Brooklyn North as rear security; and PO Leonard Clarke of the Intelligence Division as vehicle security [BR 05].

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b),
§ 87(2)(g)

Allegation (I) Abuse of Authority: At the 84th Precinct stationhouse, an officer did not obtain medical treatment for § 87(2)(b)

§ 87(2)(b) testified that, following his arrest, officers took him to the 84th Precinct stationhouse and placed him in a holding cell while his arrest was processed [BR 02]. He remained at the stationhouse for approximately nine hours. While there, § 87(2)(b) became increasingly agitated due to his § 87(2)(b). After being in custody for an unknown amount of time, § 87(2)(b) attempted to hang himself in the holding cell with his jeans. Officers took him down, but he did not recall how many officers were involved. § 87(2)(b) did not ask to go to a hospital and noted that he was not taken to a hospital because he told the officers that he had calmed down. § 87(2)(b) did not recall what these officers looked like. § 87(2)(b) later told the officers that he would attempt to hang himself again if he did not leave the stationhouse, and officers took him to central booking immediately thereafter. The CCRB was unable to establish contact with five other individuals who were in the 84th Precinct stationhouse holding cells at the time of the incident [BR 24].

PO Fenton testified that holding cells at the stationhouse are located on the first floor, while he was processing § 87(2)(b)'s arrest paperwork on the second floor [BR 07]. PO Fenton was unaware of any attempts by § 87(2)(b) to hang himself or otherwise harm himself while in the holding cell. No officers informed PO Fenton that § 87(2)(b) had attempted to hang himself, and PO Fenton did not hear any statements by § 87(2)(b) about wanting to hurt himself while in police custody.

Sgt. Johnny Yin of the 84th Precinct was the desk officer while § 87(2)(b) was in custody at the stationhouse [BR 11]. He did not recall any individuals attempting to hang themselves in the holding cells on the incident date, and he was not informed of such an incident by any other officers. Sgt. Yin did not recall whether there was a holding cell attendant on the date of the incident.

The 84th Precinct Command Log from the incident date did not contain any entries regarding an incident involving § 87(2)(b) or any other prisoner in the holding cell [BR 09]. The Tour 2 Roll Call from the 84th Precinct on the incident date does not list any officer as a designated holding cell attendant [BR 09]. A request for the 84th Precinct Prisoner Holding Cell Roster from the incident date returned negative results [BR 08].

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- PO Fenton has been a member of service for eight years and has been a subject of nine other CCRB complaints with 30 allegations, none of which were substantiated. PO Fenton's history lists multiple allegations of premises entries and searches as well as one other refusal to show a search warrant.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.

- On February 27, 2020, a request to determine if a Notice of Claim was filed was submitted; confirmation from the Office of the New York City Comptroller will be forwarded upon receipt [BR 19].
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Squad No.: 3

Investigator: _____
 Signature Print Title & Name Date

Squad Leader: _____
 Signature Print Title & Name Date

Reviewer: _____
 Signature Print Title & Name Date